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SERVICE DATE – FEBRUARY 13, 2006

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-927X

BOOT HILL & WESTERN RAILWAY CO., L.C. – ABANDONMENT EXEMPTION – IN
FORD COUNTY, KS

Decided: February 10, 2006

Boot Hill & Western Railway Co., L.C. (BHWR), filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 15.8-mile line of railroad between milepost 0.0, at Bucklin, and milepost 15.8, at Wilroads, in Ford County, KS. Notice of the exemption was served and published in the Federal Register on April 5, 2005 (70 FR 17283).

By decision served on May 4, 2005, the proceeding was reopened at the request of the Board’s Section of Environmental Analysis (SEA) to impose an environmental condition requiring BHWR to notify the U.S. Department of Commerce, National Geodetic Survey (NGS), 90 days prior to conducting salvage activities so that NGS may plan for the possible relocation of 14 geodetic station markers identified on the line.

On January 31, 2006, BHWR filed a request for issuance of a notice of interim trail use or abandonment (NITU) under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and 49 CFR 1152.29 for the right-of-way to be rail banked and used for interim trail use.¹ BHWR states that it has not exercised its abandonment authorization and has not filed a notice of consummation with the Board. BHWR has submitted a statement of willingness to assume financial responsibility for the management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way owned by BHWR, as required at 49 CFR 1152.29, and has acknowledged that the use of the right-of-way is subject to possible future reconstruction and reactivation for rail service.

In light of BHWR’s statement that it will remain financially responsible for the right-of-way, acknowledging that use of the right-of-way is subject to possible future restoration of rail

¹ A railroad is permitted to rail bank its own line where the railroad represents that the property is suitable for interim trail use and that it will assume financial responsibility for the line. See Roaring Fork Railroad Holding Authority–Abandonment Exemption–in Garfield, Eagle and Pitkin Counties, CO, STB Docket No. AB-547X, slip op. at 4 n.11 (STB served Oct. 16, 1998).

service, the requirements of the Trails Act and the regulations have been met, and a NITU will be issued.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The notice of exemption served and published in the Federal Register on April 5, 2005, exempting the abandonment of the line described above, is modified to the extent necessary to implement interim trail use/rail banking for the rail line.
3. BHWR must notify the Board if it is going to discontinue rail banking and consummate the abandonment.
4. Interim trail use/rail banking is subject to the future restoration of rail service.
5. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary